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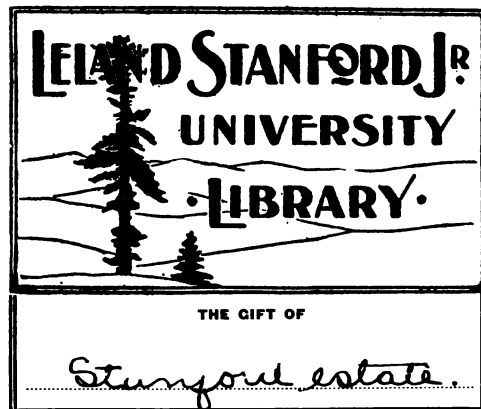
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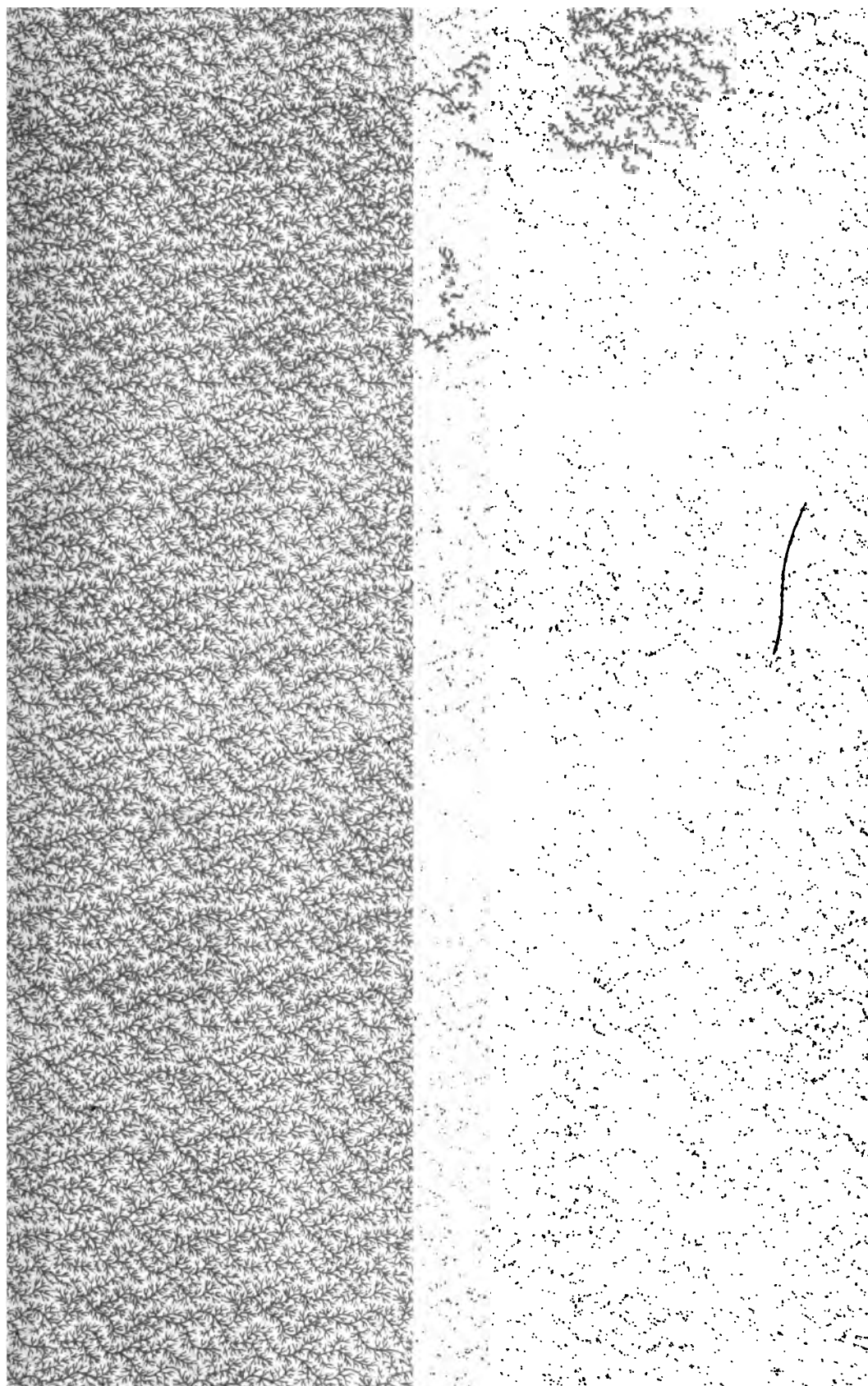
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LORENZO SAWYER

Robert H Bancroft





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HISTORY OF THE LIFE
OF
LORENZO SAWYER

A CHARACTER STUDY

BY
HUBERT HOWE BANCROFT

[FROM CHRONICLES OF THE BUILDERS OF THE COMMONWEALTH]

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Lorenzo Sawyer

HISTORY OF THE LIFE

OF

GRENZO SAWYER

FROM JUDICIARY—ANCESTRY AND PARENTAGE—A GOLDEN
EARLY CAREER—STUDY OF THE LAW—OVERLAND
TRAVEL—HISTORIC LAW-BOOKS—AT NEVADA CITY—IN SAN FRANCISCO—
DISTRICT COURT JUDGE—CHIEF JUSTICE—CIRCUIT COURT
—PROFESSIONAL VIEWS AND DECISIONS—GRAND LODGE ORA-
TOR—STANFORD UNIVERSITY—THE CENTRAL PACIFIC—CAREER
AFTERWARD.

THE real strength of a nation, it has been well
said, consists less in the efficiency of her armies,
less in the honesty and ability of her law-givers, than
in the character of her judiciary. Certain it is that
the advantages of a republican government and
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if the law does not inspire a wholesome respect
for the majesty of the law, but for the min-
utes of the law. Of all the economy of civilization
there is perhaps no more potent agency than a pure,
swift and intelligent administration of justice.
Nowhere does the page of human history contain
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Sam. May.

HISTORY OF THE LIFE

OF

LORENZO SAWYER

THE CALIFORNIA JUDICIARY—ANCESTRY AND PARENTAGE—A GOLDEN WEDDING—EARLY CAREER—STUDY OF THE LAW—OVERLAND JOURNEY—HISTORIC LAW-BOOKS—AT NEVADA CITY—IN SAN FRANCISCO DISTRICT COURT JUDGE—CHIEF JUSTICE—CIRCUIT COURT JUDGE—PROFESSIONAL VIEWS AND DECISIONS—GRAND LODGE ORATION—THE STANFORD UNIVERSITY—THE CENTRAL PACIFIC—CAREER AND CHARACTER.

THE real strength of a nation, it has been well remarked, consists less in the efficiency of her armies, or in the honesty and ability of her law-givers, than in the character of her judiciary. Certain it is that the advantages of a republican government and of liberal institutions are but imperfectly enjoyed when there does not also exist a wholesome respect not only for the majesty of the law, but for the ministers of the law. In all the economy of civilization there is perhaps no more potent agency than a pure, impartial, and intelligent administration of justice. Nowhere does the page of human history contain more instructive lessons than that wherein have been written and expounded the ethics of the law. From such material it is that national greatness is fabricated, by such influences that it is preserved.

And what shall be said as to our California judiciary, whose existence, compared with that of older communities, is but of yesterday? If in its earlier history there were men who gave cause for reproach, men whose lax and corrupt administration compelled

the people to arise in their majesty, and execute with their own hands the justice which its ministers denied, all this has long since passed away. In their place are men whose integrity has never been doubted, whose ability has never been questioned, and on whose decisions the public are content to rely. If we have not as yet among us such judicial luminaries as were Coke and Mansfield in England, as were Marshall and Story in the eastern states, there are not a few whose pure and able interpretation of the law, whose comprehensive grasp of its principles, have gained for them a national, if not a world-wide, reputation. Such a man is Lorenzo Sawyer, formerly chief justice of California, and for many years United States circuit judge.

From the shire of Lincoln, England, where for years was the ancestral home of the Sawyers, Thomas and his two brothers were the first of the name to migrate to the western world. About sixteen years after the *Mayflower* cast anchor in Plymouth harbor, their names were enrolled among the first colonists of Rowley, Massachusetts, whence, in 1647, Thomas removed to Lancaster, in the western portion of the colony. Here he was one of a party of five by whom the settlement was founded, and with John Prescott and Ralph Houghton, also among its pioneers, was appointed a few years later one of the "prudential men" to whom all local authority was intrusted. Himself a man of note, John Prescott was the ancestor of some of the most noted men in New England annals, among them being Colonel Prescott, who commanded at Bunker hill, and William Prescott, and William H. Prescott the historian of Mexico and Peru. He was also the ancestor of the present United States senators, Philetus Sawyer, George F. Hoar, and William M. Evarts; and of the former United States senator and attorney-general, E. Rockwood Hoar. No less distinguished were the descendants of his son-in-law, Thomas Sawyer, many of whom

played a leading part in the war of independence, and the war of 1812, no less than nineteen of the Lancasterian Sawyers serving in the former, and it need not be said in the ranks of the patriots.

In 1636, when Thomas Sawyer first set foot on the shores of Massachusetts, Charles I. was still on the throne, Cromwell had but just entered upon his career, and England was on the eve of the great international conflict which ended with Naseby and the tragedy of Whitehall. Since that date six generations of the Sawyer family have been gathered to their rest, and though much of their history has been lost, that which remains will prove an invaluable legacy to their descendants, not only as a record of ancestral virtues, but as an incentive to generations yet to be.

Of the eleven children of Thomas Sawyer, whose decease occurred at Lancaster, at the age of eighty-eight, his eldest son, also named Thomas, was carried captive by the Indians to Canada, and there with his son Elias, who shared his captivity, built the first sawmill as the price of his liberation by the governor. Of the two sons of Elias Sawyer, the younger, named Elisha, was born at Lancaster in 1720, and fifty years later ended his days at Sterling, Massachusetts, where certain lands and tenements, then for the first time occupied by the family, had been left to him as a heritage from his grandfather. Among his twelve children was one named Thomas, the child of his second wife, and a native of Sterling, whence about 1789 he removed to Plymouth, Vermont. At Sterling were born to him four sons and two daughters, and at Plymouth four sons and one daughter, among the latter being Jesse, the father of Lorenzo Sawyer. Numerous, though widely dispersed are his descendants of the second and third generations, and still more numerous and widely scattered are other branches of the family. Not a few of its members are numbered among the most prominent citizens of Boston, where

in 1851 a society was formed with Frederick W. Sawyer as president, to collect such records as remained of this ancient and time-honored race.

From Plymouth, Vermont, Thomas Sawyer, the grandfather of Lorenzo, removed to what was then known as the Black river country, in northern New York, the journey occupying seventeen days, or three times the time that is now required for a trip across the continent. Here on a Saturday afternoon, in the opening year of the nineteenth century, he reached the present sight of Watertown, in Jefferson county, and selected as his homestead a piece of forest land. On the Sabbath he built for himself a cabin, in which, or in the more commodious structure that took its place, he and some of his descendants have ever since resided. The widow of Laurentius, his grandson, and her two sons was its occupant in April 1890, when Lorenzo last visited it. Near by in the now city of Watertown stands the edifice of the first presbyterian church, organized in 1801 by Thomas Sawyer and others, and of which the former was a deacon, though long before this date his house, wherever located, was always open for the assembling of the devout. His death occurred in 1825, and his wife, *née* Susanna Wilder, survived him by nearly a score of years, outliving her ninety-first birthday. She was a woman of remarkable energy and force of character, supplying the place of a physician, not only in Watertown but in several adjoining settlements. To all her neighbors she was endeared by her kindness of heart, and with her grandchildren was an especial favorite. On parting with them, as one after another went forth to make his way in the world, her advice was: "Be a friend to everyone, and you will never want a friend yourself."

Plymouth, Vermont, was, as I have said, the birth-place of Jesse Sawyer, the father of Lorenzo, and the day the 24th of May 1796. Removing with the family to Watertown when four years of age, after receiv-

ing such education as the district schools afforded, he began his career as a farmer, which calling he followed throughout his lifetime, though with many changes of location. Soon after attaining to man's estate we find him settled at Huntingtonville, near which, at the town of La Ray, named after a French count who purchased there a large estate, Lorenzo, the oldest of his six children, was born on the 23d of May 1820. In 1835 he exchanged his farm in that locality for one of six hundred acres in northern Pennsylvania, and as most of it was timber land erected there a sawmill. Thence a few years afterward he removed to Ohio, and still later to Illinois. In his vocation he was fairly successful, as could not fail to be the case with a man of his strong intelligence and force of character. Together with his wife, *née* Elizabeth Goodell, a cousin of the celebrated missionary, William Goodell, he had joined the presbyterian church, was a sincere and earnest Christian, and during the religious revivals in northern New York, beginning in 1822, extended to its promoters his sympathy and aid. But perhaps the best description that can be given of the career of Mr and Mrs Jesse Sawyer is contained in the following extracts from the address of their son, Joel Swain, at the celebration of their golden wedding at Belvidere, Illinois, on the 11th of February 1869 :

"You accepted the conditions of a laborious life, encountered its difficulties, endured its hardships, and sustained its burdens with the most exemplary courage and fortitude, never yielding to the allurements of ease or the gratification of selfish enjoyments. You wrestled with stern nature, and sometimes with adverse fortune, in the forests of New England, New York, Pennsylvania, and Ohio, and the prairies of Illinois and Minnesota bloom with greater loveliness through your care.

"You have not filled large spaces in the public eye, but your quiet, unobtrusive virtues have shed a

brilliant lustre on your private life. You have not sought the applause or honors of the world, but you have enjoyed the affection and confidence of your neighbors and endeared yourselves to all those needing your care, sympathy or consolation. You have not labored mainly for the meat that perisheth, but have sought first the kingdom of God and his righteousness, with a sublime confidence that all other things shall be added, which are really needful. You have not sought eagerly nor secured largely what the world is pleased to term success, but who shall say what constitutes success in the vocabulary of angels? Whether you would to-day exchange the success attained by yourselves for all the glittering store of the world's idols, I need not ask.

"To the principles of morality, virtue, and gospel truth early instilled into their minds, enforced by your example, do your children owe whatever of good may appear in their characters, whatever of success they may attain in life, whatever of public or private consideration and esteem they may inspire, and as a fitting return for your care, your integrity, and the other Christian graces illustrated by your daily lives, you now realize the assurance of the sacred proverbialist, that your children shall arise, as we do this day, and pronounce you blessed."

Not long afterward Jesse Sawyer passed away, followed later by his wife who, at the age of ninety-two, was peacefully gathered to her rest, in the home where, sixteen years before, her golden wedding had been celebrated.

To the training received from such parents, no less than to his own efforts, to the training, rather, which made him capable of such efforts, and gave them direction, Lorenzo Sawyer owes the exalted position which he has since attained.

Reared as he was in a home where was the very dwelling-place of honor and simplicity, where as his brother remarked the principles of morality, virtue,

and truth were early instilled, and enforced by example, it were hardly to be expected that his life should be other than it is, one of singular purity and usefulness, presenting a career on which no breath of reproach has ever rested.

Like other farmers' sons, Lorenzo began early the serious business of life. At an age when most boys are midway in their education, he had learned to do everything that is to be done in the working of a farm. He could plow and sow; he could look after cattle; he could cut logs and raft them; he could mow hay and reap grain, and to this day he bears on his wrist the scar of a wound received while whetting a scythe. Rising before day in the freezing cold he tended the livestock, and worked in the barn until the hour of breakfast and school, returning toward nightfall to complete his task. At ten he could drive an ox-team to the river bank, discharging into the stream a wagon-load of logs, and this he did a hundred times amid the pine forests of this Black river country, then on the verge of the wilderness primeval. In truth it was a hard life he led on this northern frontier, with its harsh and forbidding climate, where four months of uninterrupted sleighing were no uncommon occurrence. But thus was added to the strong constitution inherited from his parents the *robur et aes triplex* which only hard toil and exposure can give; thus were his sinews toughened, his brawn and muscles developed; to this experience it is due that now at the age of three-score and ten Mr Sawyer's powers of mind and body show but slight traces of decay.

From hauling timber Lorenzo turned his attention to selling it, and for this he had a good opportunity when the family removed to their Pennsylvania farm, on which were several hundred acres of choicest timber. At eighteen we find him steering down the Susquehanna river a raft of lumber cut at his father's sawmill, and this he disposed of below the town of

Harrisburg, a distance of more than 200 miles. During the voyage he read for the first time Campbell's *Gertrude of Wyoming*, and we may be sure that he followed with the keenest relish the story of this beautiful epic, for he was now at the romantic era of life, and to him the history of Wyoming and the Wyoming massacre were ever of absorbing interest.

Let us picture to ourselves the future jurist afloat on his lumber raft on the waters of the Susquehannah. He is attired in his work-day clothes, his right hand on the long oar which serves as rudder, and in the left his book, at which now and then, if the course is clear, he casts a hurried glance. In the centre of the raft is the cooking galley, where his dinner of pork and beans is boiling, and adjoining it is the tiny cabin, where far into the night he pores over his favorite volume. Thus the hours glide past, smoothly as the current of the noble river that bears on its bosom his unwieldy craft. But presently he approaches a critical point. It is the Shemokim dam through the chute of which the stream rushes like a mill-race. At the lower end a rock had been deposited by the floods, the terror of raftsmen, who by a sudden jerk of the oar were often thrown headlong into the seething waters. No more meditation now; but making fast to the river bank, he steps on the wall of the chute and quietly watches his turn. It is not a reassuring sight, for of the score of rafts that are borne through this Charybdis all but one suffer partial shipwreck. But now his time has come. Profiting by what he had seen, without the quiver of a muscle he grasps the oar and pushes out into the stream. The current is furious, with a hell of water on either side of him, and when about midway in the passage his raft just grazes the dreaded rock and for an instant his heart rises into his throat. But it is only a scratch. Another moment and he is out of danger and in due time, his cargo disposed of, he is on his way home with a goodly sum for safety sewed

into his shirt, wherewith to replenish the family exchequer.

Except for such rudiments of education as could be acquired at the district schools, and for a year or two of study at the Black river and other institutes, Mr Sawyer was entirely self-taught. From early boyhood his evenings and most of the few play hours that fell to his share were devoted mainly to books, pitch pine and tallow candles, furnished him light. There was no gas in those days. At Rutland, some three miles from his home was a public library of well selected works, of which he was not slow to avail himself, riding into town to exchange his books as soon as he had mastered their contents. Mathematics and the physical sciences were his favorite subjects, and like others who have attained to eminence in his profession, he was a natural mathematician. The knowledge which he acquired at school, or from private study, he made more thoroughly his own by teaching, the best of all means of gaining a thorough mastery of a subject, and of discovering one's own deficiencies. Among other places where his services were in demand was the town of Southport, in New York state, where the population was one of more than average intelligence, including several retired merchants from New York city, whose children were placed under his charge.

But it was not as a teacher that Mr Sawyer was destined to make his mark in life. Teaching, as he had not failed to observe, is but a poor calling, except as a stepping-stone to something better. Had he remained therein the state of New York would have had the advantage of an excellent teacher, but the state of California would have lost an excellent judge. It was, however, partly by accident that he was led to adopt the profession of the law. A murder trial was in progress at Watertown, when entering

the courtroom he listened with the deepest interest. On the bench was a judge of the old-fashioned type, grave, dignified, and formal, but with a thorough knowledge of the law. For the prosecution and defence were two of the ablest lawyers of the day; and as he listened to the speeches on either side, the examination and cross-examination of witnesses, with all the legal sparring incidental to the case, his mind was captivated and he decided to become a lawyer. That he should ever be a judge he did not then imagine, for Mr Sawyer was ever a modest man, and as unassuming as modest; but such are the men whom office and position seek, when called upon to seek at all, which is not often. Meanwhile he kept his intention secret, for by the pious New England people, among whom he was reared, a lawyer was regarded as cousin-german to the father of lies.

At the age of twenty Mr Sawyer made his first appearance in public at the mineral springs at Rome, in Pennsylvania, a summer resort, near which the family then resided, and formerly a portion of his father's estate. It was before one of the Tippecanoe and Tyler clubs, of which during that memorable campaign numbers were formed throughout the land. With much reluctance he consented to make a speech, taking the side of the whigs, to which party at the time he belonged. It was a trying moment when the young man confronted a large audience, his speech prepared, except as to the language, from a careful study of the best orations delivered during the campaign. When he began to speak a feeling of dizziness came over him; but he was kindly received, and soon his embarrassment wore away. As he proceeded he carried with him the sympathies of his hearers, for he possessed in no small degree the power of personal magnetism. When about two-thirds through the speech he had laid out, he made a remark which aroused their enthusiasm, and was followed by a burst of applause long continued. At this point he

took his seat, although he had much more to say, thus showing that he possessed one of the most able of oratorical gifts, the knowledge when to stop.

But Mr Sawyer had long since discovered that Pennsylvania was not the place for men who possessed no other capital than that which nature had bestowed on them. He would go west, to what exact point he had not determined, but as far as his money would carry him. His parents offered no strong objection, for they had the utmost confidence in their favorite son, though his father promised him a farm if he would remain. So on a summer morning, in 1840, a day or two after his maiden speech, we find him on the stage for Williamsport, whence, by way of the Susquehanna and Juniatta canals, he passed on to Pittsburg, and by the Beaver canal and river to Cleveland and Atwater, the latter in Portage county, Ohio. At Atwater, in the autumn and winter, he taught the district school, meantime assisting one, Deacon Horton, formerly a neighbor and fellow church-member, with his father, in the building of his house. "Lorenzo," said the deacon, thirty or forty years hence, when you get to be a distinguished man, if you should happen to come along back into this region you can point to this house and say you helped to build it." Nearly forty years afterward Mr Sawyer, then United States circuit judge, returned, to find his friend, at the age of ninety-five, still living in the neighborhood. Though he could not remember incidents which had occurred but yesterday, he had not forgotten Lorenzo, or the part he played in the building of the house.

After teaching and studying alternately, as his means permitted, he removed to Columbus, Ohio, near which his cousin, the Reverend Leicester A. Sawyer had just established Central college of Ohio, of which he was president. Here he taught the freshman class in Latin and mathematics, and of

his pupils there were not a few who, in after life, attained to eminence. Among them were his younger brother, who became one of the most prominent men in southern Minnesota; also George L. Converse, one of the most eloquent of democratic speakers and a distinguished member of Congress; John C. Lee, twice lieutenant-governor of Ohio and a colonel in the civil war; Doctor Lathrop, formerly rector of the church of the advent in San Francisco; and Doctor Washburn, rector of the leading episcopal church in Cleveland, who lost his life in the railroad disaster at Ashtabula, also Thomas Carney afterward governor of Kansas. Meanwhile he continued his studies, using to the best advantage every spare moment.

His college education completed, Mr Sawyer entered the office of Gustavus Swan, the leading real estate lawyer of Ohio, who presently withdrew from practice to accept the presidency of the state bank of Ohio, then under the management of a board of control located at Columbus. To this board he was appointed assistant secretary, and while studying law held that position for more than a year, counting money by the million, attending to the correspondence, and examining and reporting on abstracts of title to the land in which the safety fund was invested. Thus it was that he gained his first insight into the business of real estate, listening at times to the advice of the president, while he arranged and signed the bills of the state bank and its fifty branches. He completed his law studies in the office of the late Justice Swayne of the United States supreme court.

In the spring of 1846 Mr Sawyer was admitted to practice in the supreme court of Ohio, soon afterward removing to Chicago, and thence to Janesville, Wisconsin, whence he went to Jefferson on the invitation of Lieutenant-Governor Homes, and became his partner upon equal terms. Here it was that he won his

first important case. It was the leading case of the term, the point at issue being an injunction against a dam, across Rock river, and Mr Sawyer appearing as junior council for the defence, with Governor Holmes and the late Chief Justice Noggle for his principals. The injunction was granted, whereupon the latter set forth from town, their business, as they thought, completed. On the following Saturday, when, as it chanced, Mr Sawyer and the judge were hunting together, the young lawyer remarked, "I think, judge, there is something wrong in that decision. The injunction is a little severe, and I don't think our side of the matter was presented in its proper light." "Well," was the answer, "If you think so, why don't you move to modify it?" "Because I am only a subordinate, and it is not my place to take action without consulting my principals." "If you think you can do better," suggested the judge, "I should not hesitate to move and try." On this hint, and without the least presage of what the result would be, Mr Sawyer gave notice to the plaintiff's attorneys that he would move for a modification of the injunction. Much to their surprise, and not a little to their disgust, first that the motion should be made at all, and second that it should be made by a junior in the absence of his principals, the case was decided in favor of Mr Sawyer's client and the injunction so modified as to be harmless. Such a victory, won single-handed against two of the most prominent lawyers in the western states, gained for him no small repute. And now he began to be spoken of as one of the rising men, not only in professional but in political circles, as a man whom the people wanted, in a word as the right man in the right place.

Doubtless Mr Sawyer was the right man, but he was not as yet in the right place; for with his ability and industry, his excellent habits and his rare capacity for work, success was assured wheresoever he cast in his lot. Though even if he remained at Jeffer-

son the future was full of promise, there were better openings than could be found in what were then the frontier settlements of the west. From the further west, about this time tidings of the gold discovery were being noised throughout the world, and he resolved to go to California, led to this decision partly by reading the newspapers, but more by the sight of a bagfull of nuggets which a successful miner displayed to the wonder-stricken citizens of Jefferson.

Early in the spring of 1850 he set forth across the plains, accompanied by a party of young men from Wisconsin, making the trip from St Joseph to Hangtown in seventy-two days, the shortest time, so far as known, in which the journey had been accomplished by a wagon train. Of that journey no record need here be given, though many of its incidents were published in a series of articles contributed by Mr Sawyer to the *Ohio Observer*, and copied in several western journals, as furnishing most valuable data to those who might follow. Many times since then he has crossed the mountains recognizing many of the places passed when first on his way to the land of gold. He has lived to cross the Rocky mountain range at *five different points by rail*, and at two by teams.

It was about the middle of July when his party, after nearly three months of travel, enjoyed their first brief rest at Hangtown, in the county whose name has since been aptly applied to the golden state. At this time Mr Sawyer's worldly effects consisted of a small stock of clothing, a smaller stock of money, a copy of Shakespeare presented to him by Professor Bosworth of the Black river institute, and eleven volumes of law books, the latter hermetically sealed in a tin case purchased for the purpose. To pack these books across the mountains had already cost him the sum of fifty dollars and, as we shall see, this little library was destined to play an important part in his career and become historic.

After a brief experience in mining, mainly at Coloma, where gold was first discovered, he concluded that his profession would be to him a richer mine than any he was likely to discover. Sacramento was then the paradise of the profession, where many a costly land and mining suit was decided at every term of court. Here he arrived in no very cheerful mood, sleeping in barns by the wayside, with his clothes worn out, and himself in the same condition from exposure, hardship, and excessive toil. Still he faltered not; nor was he discouraged, accepting as the first work that was offered the copying of the assignment of the then great banker and bankrupt, Barton Lee, for which he received an ounce of gold-dust. But for a man of Mr Sawyer's ability, there was no occasion to hide his head under a bushel, and soon we find him in partnership with the city recorder and police judge, Frank Washington; then sickness came upon him, a sickness contracted during his overland journey, and for several weeks he was unable to work. At this juncture began the squatter riots, and of these he was one of the spectators, dragging himself from his berth under the common council room to witness the scenes that followed. He saw the dead and wounded as they fell and before removed from the street, among whom was Mayor Bigelow, who afterwards died from his wounds.

In October of 1850, Mr Sawyer, in order to recover his health, removed to Nevada city, where he practised his profession until the autumn of 1853, except for a few months spent in practice at the capital and the metropolis, where he formed a partnership with Judge Roderick N. Morrison and his nephew, Frank M. Pixley. Not least among the causes that led to his success in Nevada was his law library. True it consisted only of eleven volumes; but at that time good law books were scarce, more so even than good lawyers. His works included *Blackstone*, *Chitty on Contracts*, *Smith's Mercantile Law*, *Story's Equity Juris-*

prudence, Wilcox' Practice, Swan's Justice, a book of Ohio practice, and Greenleaf's Evidence.

The history of these books is worth relating, for few persons or things passed through more perils from desert, fire, and flood, than did these eleven volumes. First of all, they narrowly escaped being left at the sink of the Humboldt river, where some of the wagons were deserted, and the labor and cost of carrying them further were great. They were once thrown out, but a friend who left his wagon consented to pack them in, and thus they were saved. In May 1851 their owner and his partners were settled in a second floor office on Commercial street, in San Francisco, which also served as bedroom. At that date fires were frequent, so frequent that they thought little of them. After several alarms that proved of no consequence, Mr Pixley vowed that in case of another alarm he would not stir from his room until the walls were hot. He had not long to wait. About midnight on the fourth of May he was roused from sleep by Sawyer, who quietly remarked: "Frank, you had better get up; the walls are getting hot." There was barely time to pack their loose effects in blankets and to reach the street, when the fire was upon them, and they were obliged to pay \$50 for the use of a dray to convey their property to the custom-house building on California and Montgomery streets, then the southern limit of the city, and, as they thought, a place of safety. But the fire, leaping from building to building, travelled almost as fast as the dray and finally swept away everything down to the bay. There was now no alternative but for each one to seize what he could carry and escape from the track of the conflagration. Shouldering the trunk which contained his clothing and papers, Sawyer carried it beyond reach of the flames, and gave up his books as lost to him forever. But two days after it was reported that some property of his was on board a vessel lying in the stream. And so it proved. Seeing the blankets

and their contents, close to what was then the water-front, somebody had rescued them and put them on board the ship then lying at the wharf. She cut loose and swung into the stream, and there they lay uninjured. Much other property was found on the same ship.

Again, a few weeks later, on the 22d of June, the fire-bell tolled a general alarm, and as Sawyer was breakfasting with Pixley, at the Jackson street restaurant, the flames came roaring down upon them, once more sweeping the city out of existence, except a few buildings on the west side of the plaza. Discouraged by these calamities, a month later found Mr Sawyer en route for Nevada city, journeying by way of Marysville. At a hotel at the latter place he left his trunk, containing his clothing and books, for as yet he had not decided where to locate and took stage for Nevada city. Next day after his arrival came news that the city of Marysville was burnt to the ground, including the hotel, which stood in its centre. Supposing, of course, his trunk was destroyed, Sawyer dismissed the matter from his mind, and settled himself to work. But the books were not made to be burned; they were not so predestined; for books, like men, have a destiny to fulfill. In the following week a teamster drove up with goods for Clark's drugstore, in which was Sawyer's office. The teamster's name, as now remembered, was Oglesby, afterward governor of Illinois. Introduced to Mr Sawyer he inquired his Christian name. "Lorenzo," was the answer. "Well," said the teamster, "I saw a trunk with the name of Lorenzo Sawyer on the card about a mile from Marysville, stored in a large house with other property saved from the fire." The trunk came safe to Nevada on the next trip of the teamster. Some six years later Mr Sawyer went east, as he thought to remain, and after some further adventures, the books—except Shakespeare and Blackstone—were transferred to the law firm of Buckner and Hill, with the

rest of his then quite respectable law library. By them they were afterward disposed of to A. A. Sargent, and by him to the county of Nevada, where, after escaping a fire or two in Nevada, in the public library they found at length a resting-place. Here, after the lapse of a quarter of a century, Mr Sawyer again caught sight of his immortal volumes, whose history is not unlike that of the typical California adventurer. Shakespeare and Blackstone afterwards went east around Cape Horn and came back to California as slow freight by the Isthmus, upon sailing vessels. They are now in Judge Sawyer's library. Blackstone is the copy in which Judge Sawyer read his first law. It was the gift of the president of Central college.

Many were the interesting cases which Sawyer tried at Nevada city, after a careful preparation at his office, connected with the drugstore, consisting at first of a few square feet near the sidewalk, if sidewalk there was, and for furniture a single chair, a paper clip, and a table, fashioned by his own hands of shakes or barrel staves, and serving at times as dining-room table for the al fresco meals of which he was himself the cook. For his first case he was indebted to the doctor and druggist, who besides being his messmate acted as dish-washer for the household. It came about in this wise: One day the druggist invited to dinner three miners with whom he was acquainted. After being introduced to Sawyer one of them remarked: "I understand you are from Ohio?"

"Yes, I am from Ohio."

"You have not been here long?"

"No, I have only just come."

"Have you ever tried any of these mining suits?"

"No, but I would like to get a chance to try one."

"I suppose you know the principles they depend upon?"

"I believe that I understand them. We have to go to the witnesses for both law and facts, I believe."

"Well, we are from Ohio, and have a suit. If you think you can manage the case I will give it to you. We have got into a little difficulty over here on Gold flat. We had taken up a claim and were working it, but a company from Tennessee has jumped it and we want to recover."

The man then stated his case in detail, whereupon Sawyer replied that if his statements were proved he thought the suit could be won. As this was Sawyer's first mining case, a fee of fifty dollars was agreed upon and paid down—a small amount for a mining suit in the days of fifty-one; but Sawyer had not yet learned how to charge,—about the only part of his profession in fact that he has never thoroughly learned. On the same day the complaint was drawn, and within forty-eight hours suit was commenced and summons served on the defendants. The opposing counsel, one of whom was Judge William T. Barber, were able and experienced lawyers, rating Sawyer, who stood alone, as little better than a novice. But they did not know their man. At every step the case was stubbornly contested, from the pleadings to the closing argument on either side. For the plaintiff the witnesses were for the most part from Ohio, for the defendant they were southerners, and so conflicting was their testimony, that perjury was clearly committed on one side or the other. After a three days' trial the jury retired to consider their verdict; and believing that they could not agree, and would probably be locked up for the night, Sawyer went home to dinner. While at table a shout was heard, and presently a number of men ran up to the store. "Where is Sawyer?" cried the leader. "We have won our suit. Where are your scales?" And without further phrase he weighed out, with a heavy down thug, another fifty dollars' worth of gold-dust.

But the most important case, and the one which helped more than any other to establish his reputation, and the one more than any other ever tried by

him that affected his future destiny, was the Rough and Ready mining suit, tried in the town of that name before E. W. Roberts, afterward county judge and state senator, and involving the possession of a claim on Yuba river valued at several hundred thousand dollars. Sawyer appeared for the plaintiffs, and for the defendants Judge Townsend was the leading counsel. As the parties to the suit were numerous and wealthy, it was said to have been agreed that all the hotel bills, including wines and cigars, for clients and witnesses, jury and lawyers, should be included in the costs, to be paid of course by those who should lose the suit. At the close of the trial it was found that the legal costs amounted to nearly \$2,000, with hotel bills of more than double that amount. The whole surrounding country took an interest on one side or another.

During the progress of the case the two hotels of Rough and Ready were crowded with guests, and among them were several ladies, all of whom took sides with the contestants, who, it was said, had their spies in the opposing camp. At the first trial the jury disagreed, and at the second, after a ten days' struggle, the jury retired at one o'clock on a Sabbath morning to consider their verdict. Sawyer made the closing argument. A few minutes later they returned into court, or rather into the warehouse where the cause was heard, with a verdict for the plaintiffs. The scene which followed was such as had probably never been witnessed in Rough and Ready. Amid deafening cheers and tossing of hats, Mr Sawyer, before he could escape from the uproar, was forced into a chair and borne in triumph on the shoulders of his excited clients to his hotel, surrounded by a surging throng shouting "Hurrah for Sawyer!" In the same way, but with less enthusiasm, they treated Justice Roberts; and then came the serious business of the evening, or rather of the morning; but this we will leave to the reader's imagination, remarking only

that Rough and Ready was then one of the richest mining camps in the state, and that saloons and dance-houses were plentiful. In the orgies which followed it need not be said that neither judge nor counsel participated.

Many were the amusing incidents of these early days, and many the pleasant hour that is still passed in recalling them. But not always were they amusing. For days at a time Mr Sawyer has been in peril of his life, his footsteps dogged by men who had vowed to take his life. On one occasion, while addressing a jury, at night a man who nursed a fancied wrong was about to strike him on the head from behind with a long block of wood, which had the blow fallen would probably have ended his career, but the raised hand was seized by the sheriff and another friend. At another time his partner, E. F. W. Ellis, was commenting sharply on the evidence of a witness from Tennessee, and from whom he was separated only by the table in front of which he stood. The man drew his revolver, but quick as a flash the other leaped with drawn knife over the table, and almost as quickly his would-be assassin was in the street. Here it may be mentioned that by Mr Ellis was framed the first sole traders' act, and that mainly by his efforts its passage was secured. At the outbreak of the civil war he enlisted as a volunteer, was promoted to the colonelcy of the 15th Illinois regiment, and at Shiloh devoted to the cause of his country the life which the southerner had imperiled.

In the autumn of 1853 Mr Sawyer again removed to San Francisco, and there, except for an occasional visit to the eastern states, and a short sojourn to Illinois, he has ever since resided. A few months later, at a time when litigation was constant, and when the city was involved in many suits, he was elected city attorney. Of this portion of his career it need only be said that during his term no judgment was ren-

dered against the city, while of those which were given in its favor only one was reversed on appeal. So ably did he conduct his cases, that in the following year when a candidate before the convention for nomination as supreme court judge, he was defeated only by half a dozen votes. But, as we know, influence, rather than character and ability sometimes carries the day in such matters.

In the spring of 1861 we find Mr Sawyer in Washington, where he first made the acquaintance of Leland Stanford. At the moment it was not the intention of the former to return to California, for he had been widely recommended for the chief-justiceship of Colorado, then recently organized as a territory and with good prospect of success. But said his friends from the golden state, of whom there were many in the capital, "Why go to Colorado? Go back where you are known. The highest position on the Nevada bench is open to you." He abandoned his candidacy for the chief justiceship of Colorado and sought the appointment for Nevada in preference. But fortunately perhaps for himself, and certainly for California, another was appointed to the office. A fortnight later he with his family was on his way to New York en route for San Francisco.

The week which Mr Sawyer passed in the great metropolis, while awaiting the departure of the steamer, was probably the most stirring experience of his life. On the first day of that week the roar of cannon at Fort Sumter had proclaimed to the world the opening of the civil war, and all was turmoil and confusion. Business was not to be thought of; in its place was the tramp of armed men and the crash of military bands. Every day, and sometimes thrice a day, ships laden with troops for the defence of Washington cast loose from the crowded piers. It was a spectacle such as few have witnessed, such as few would care to witness; one sadder even than was seen in Brussels on the eve of Quatre Bras.

Soon after returning from the east Mr Sawyer entered into partnership with General Charles H. S. Williams, one of California's ablest lawyers. At that date the Comstock lode was beginning to reveal its marvellous wealth, and endless were the lawsuits arising from conflicting claims. About the close of 1861, the firm decided to open a branch office at Virginia city and of this Mr Sawyer was placed in charge. On New Year's day of 1862 we find him in the streets of Sacramento, or rather in the water which covered its streets, for it was a year of flood, and the city lay in the midst of a vast inland lake. Rowing in an open boat to the highlands, he journeyed by train to Folsom, and thence by stage to his destination, where he was at once acknowledged as the leader of the bar.

On May 27th of this year, while trying an important case, he received by telegram from Governor Stanford an offer of the judgeship of the twelfth district court, made vacant by the resignation of Alexander Campbell. For a time Mr Sawyer hesitated. He had been retained in most of the great mining cases pending at the time, for which apart from large contingent interests, his fees would have amounted to more than the total sum he has since received for thirty years' service on the bench. But while not underestimating the value of money, there were other things which he valued more, and among them the happiness of his wife and family, for whom there could be no attraction in Virginia city. After exchanging messages with Mrs Sawyer, therefore, he decided to accept, on the same night the trial was finished, and on the following day he was en route for San Francisco, crossing the snow-covered mountains on horseback to the point where a road was open for vehicles. Reaching Sacramento only a few minutes before the steamer sailed, he ran to the governor's office and thence, his commission in hand, to the wharf. The boat had

put off, and from it he was separated by several feet, but clearing the space with a bound he landed safely on deck and soon after nightfall reached his home on Saturday night. On Monday morning he opened court at Redwood city.

For the twelfth judicial district, including the counties of San Francisco and San Mateo, Sawyer was soon afterwards chosen for the full term, and without opposition, both parties placing him in nomination. Under the provisions of the state constitution, as amended in 1863, he was elected on the republican ticket judge of the supreme court, and on casting lots drew the six years' term, for the last two of which he was chief-justice. In 1869, when the circuit courts of the United States were re-organized by act of congress, he was nominated by President Grant circuit judge for the ninth circuit, comprising all the Pacific states. The nomination was confirmed by the senate without a dissenting vote, and early in the following year Sawyer entered upon the duties of the office which he has ever since retained.

Except perhaps Justice Field, Judge Sawyer has been called upon, during his long career on the bench, to decide more questions relating to the settlement and preservation of land titles than any member of the judiciary. Of late years there have been many efforts to set aside the patents issued after years of litigation to Spanish grantees. In these cases parties whose claims were long since barred by the statute of limitation have received the permission of the attorney-general to bring suit in the name of the United States, thus renewing the litigation twenty or thirty years after the issue of the patent, for in such cases the statute of limitation does not apply to the United States. Of this class were the suits of the United States versus the San Jacinto tin company, United States versus Throckmorton, United States versus Carpentier, and many others. The judgment rendered by Sawyer in favor of the defendants

was in every instance affirmed, much to the relief of land owners, for had it been otherwise, a distrust would have been created of all titles derived under Spanish grants. Next in importance were the mining debris suits, of which the more important cases, including that of Woodruff versus the North Bloomfield mining company, were decided in the circuit court. The other great cases decided by Judge Sawyer are too numerous to specially mention.

Such, in brief, is the professional career of Lorenzo Sawyer, extending over well-nigh half a century, for nearly thirty years of which he has been one of the most honored members of our judiciary. To the other members of that judiciary it is no injustice to say that by his learning and ability, by his industry and research, and above all by his perfect integrity, he has done as much as any living man to give to the tribunals of California their high repute. If he is not a man of genius or of brilliant parts—to such qualities he never laid claim, nor are they wanted in a judge—he possesses what is far better than genius, a fund of sound, practical, common sense, and the business capability which, in a measure, his position demands. By none is he excelled in the patience and application which he brings to bear on his cases, probing them to their inmost depths, dissecting them, and weighing the points at issue with the surest discrimination. Said the *American Law Review*, then published at Boston when Sawyer was chief-justice of this state: “The history of California is a history of marvellous phenomena, and not the least is its jurisprudence. Less than twenty years ago the common law was unknown on the Pacific coast, and to-day we find the supreme court of California holding it with a comprehensive grasp, and administering it with an ability decidedly superior to that shown by the tribunals of many much older communities.”

Law, Judge Sawyer regards as a progressive science, whose principles must be adapted from time

to time to the ever-changing condition of human affairs. Take, for instance, railroad and corporation laws. Those which existed half a century ago are not a tithe of those which now exist, and perhaps not the hundredth part of those which will exist half a century hence. Even in the older and long-settled states, as in New England, even in England herself, new questions are constantly arising; much more so is this the case in the far west, and especially in California, with her numberless statutes relating to mining and irrigation. In early days the civil law of Spain, as modified by Mexico and California, was the one in force. There were no law libraries, and even the language in which the statutes and laws were expressed was but little understood. Gradually the civil law was discarded, or consolidated with the common law, many suits begun under the former being concluded under the latter. In fact, a new system of laws has been developed, especially as to land titles, for many years a fruitful source of litigation.

As to the functions and character of the judiciary, Judge Sawyer remarked at a meeting of the associated alumni of the Pacific coast, on the 3d of June 1868, "In my judgment it is impossible for an enlightened people to prize too highly a thoroughly capable, watchful, honest, independent, and fearless judiciary. Such a judiciary is not only the safeguard and the hope of American liberty, but is the principal stay and support of freedom, and of the social fabric everywhere. The administration of justice and its handmaid, religion, although perhaps in a form in some degree rudimental, march hand in hand in the van of civilization. They also in their more perfect development constitute the crowning glory in the meridian splendor of every enlightened age. As these elements in the social economy become corrupt, gradually decline and disappear, the twilight of a waning civilization again shades away into the

night of barbarism. There can be no assured enjoyment of civil liberty, no social security, no permanently advanced stage in the development of our race, no stability in the institutions of civilization, where there is no honest, effective, and fearless administration of the law; where the fountain of justice is not pure, and where its stream is not allowed to flow freely and without obstruction, and unaffected by disturbing influences. On the other hand, wherever the laws are faithfully administered by a capable, independent, and fearless judiciary; wherever strict justice is meted out to every individual, whether rich or poor, high or low; wherever the thatched cottage of the lowest born is the castle of the proprietor, which, while the winds and rain may enter, the king may not; wherever the judiciary is no respecter of persons, always holding the scales of justice even, with an 'eye single to the trepidations of the balance'—there no remnant of barbarism will be found. In the words of one who clothed his great thoughts in language second only in terseness and felicity of expression to that of him who spake as never man spake: 'Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction—whoever clears its foundation, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society.'

"Mr President, since justice is the great interest of man on earth, it is gratifying to know that wherever and whenever the judiciary has been independent and untrammelled, except so far as it is

bound by the just principles of the law itself, there have been found men fully equal to the task of its intelligent and pure administration. True, it falls to the lot of but few in any one generation to officiate in the highest sanctuaries of justice, and to fewer still to rival those judicial Titans,

‘The law’s whole thunder born to wield.’

“But, sir, I cannot believe it possible that one endowed with fair natural abilities, a sound and unbiased judgment, who has cultivated his talents with diligence and care, and become well grounded in the ethics of the law, who has risen to a true conception of the magnitude, and become thoroughly penetrated with the vast importance of the mission of the judiciary, in its relation to the well-being of man, and the stability of good government, can make a bad judge. Such a man may not attain to the summit of judicial greatness; he may not be a brilliant luminary, shedding his light afar, imparting alimant and warmth to nourish and promote the administration of justice in distant lands; but he cannot fail to be a worthy judge, and useful in the immediate sphere of his influence; he cannot fail to contribute in some degree to the perpetuity of free institutions.”

Sawyer’s reputation as a jurist has long since become national, and among other recognitions of his attainments and services it may be mentioned that in 1877 the honorary degree of doctor of laws was conferred upon him by Hamilton college in New York. His decisions, as contained in fourteen volumes of *Sawyer’s United States Courts’ Reports* and in fifteen volumes of the *California Reports*—volumes 24 to 38 inclusive—are among the classics of the law. From these decisions the following extracts may be of interest. In the case of Tiburcio Parrott on *habeas corpus*, arrested for employing Chinamen, in a manner prohibited in the new constitution, his ruling was as follows:

"Holding, as we do, that the constitutional and statutory provisions in question are void for reasons already stated, we deem it proper again to call public attention to the fact, however unpleasant it may be to the very great majority of the citizens of California, that, however undesirable, or even ultimately dangerous to our civilization an unlimited immigration of Chinese may be, the remedy is not with the state but with the general government. The Chinese have a perfect right, under the stipulations of the treaty, to reside in the state and enjoy all privileges, immunities, and exemptions that may be enjoyed by the citizens and subjects of any other nation; and under the fourteenth amendment to the national constitution, the right to enjoy life, liberty, and property, and the equal protection of the laws, in the same degree and to the same extent as these rights are enjoyed by our own citizens. To persist in state legislation in direct violation of treaty stipulations and of the constitution of the United States, and to endeavor to enforce such void legislation, is to waste efforts in a barren field, which, if expended in the proper direction, might be productive of valuable fruit, and, besides, it is but little short of incipient rebellion."

Among his most exhaustive decisions was the one in the matter of Deputy United States Marshall Neagle on *habeas corpus*, the charge against him being the shooting of David S. Terry. After a most careful statement of the facts and law in the case, including the circumstances under which Terry was shot, he concludes: "On that occasion a second, or two seconds, signified at least two valuable lives, and a reasonable degree of prudence would justify a shot one or two seconds too soon, rather than one or two seconds too late. Upon our minds the evidence leaves no doubt whatever that the homicide was fully justified by the circumstances. In our judgment he acted, under the trying circumstances surrounding him, in good faith,

and with consummate courage, judgment, and discretion. The homicide was, in our opinion, clearly justifiable in law, and in the forum of sound, practical, common sense, commendable. This being so, and the act having been done in pursuance of a law of the United States, as we have already seen, it cannot be an offence against, and he is not amenable to the laws of the state.

“Let the petitioner be discharged.”

This is the suit of Cunningham versus Neagle, wherein the propriety of killing Terry was involved. Judge Sawyer's opinion in this case, as affirmed by the supreme court, has probably been more widely read than any that has been delivered from the bench of the United States. On this ruling he has received complimentary letters from every section of the union, from Canada, from England, Germany, and other European countries, and even from Japan. The stand which he took was a bold one, but not more so than the occasion demanded, claiming for the national government all the powers of a nation, including that of self-protection in all its departments.

In politics Judge Sawyer was in youth a whig, a disciple of Daniel Webster, Henry Clay, and other great leaders of the party whose names and deeds alone survive, and whose principles are closely blended with all that is best worth preserving in our national policy. One of those who organized the republican party in 1856, he attended the Chicago convention, and though not a delegate, did all that lay within his power to secure the nomination of Abraham Lincoln. In his political, as in his judicial career, he has aimed always at the right, and if on rare occasions his judgment has been questioned, none have ever doubted his honesty and sincerity.

Since 1845 Judge Sawyer has been a member of the society of odd fellows, and since 1858 a royal arch mason. Of the few addresses which he has made in public, perhaps the one which has been most

widely read and commended, one that was complimented in the reports of all the grand lodges of the United States, was the oration delivered in October 1879, before the grand lodge of California. After tracing in choice and vigorous language the history of masonry, from the days of Solomon to the time when, less than twenty years ago, a grand lodge of the order was opened under the shadow of the Vatican, he continues:

“Much use of the element of secrecy, by means of which brothers of the fraternity recognize each other among strangers and protect themselves from imposition, was formerly made by the enemies of the order for the purpose of inflaming the prejudices of the ignorant and the jealous, and doubtless with some effect. The publication of the proceedings of the grand lodges authorized during later years has, however, tended largely to allay these prejudices. In these published proceedings the essential workings of the order are laid open to public examination and criticism; and no one can read them as they appear from year to year without being strongly impressed with the good tendencies of the principles of masonry in all their practical, as well as speculative, workings, as is there made known to all. We are no propagandists. We extend a special invitation to no man to enter the precincts of masonry. If one seeks admission to our society, it is unsolicited and of his own free, unbiased will, after a full investigation of our principles and their practical operation; and the fact that so many intelligent men, among the most orderly and worthy classes of society, seek association with us is ample evidence that our principles meet the approbation of good men, and that their tendencies are all to good order and to the highest interests of society at large. Speculative masonry is not, and it does not profess to be, a religion or a substitute for religion; but it inculcates a system of the purest morals, which is an essential

element and necessary concomitant of all true religion. There are certain elements or principles which are universally accepted as essential to all systems of faith worthy the name of religion—such as a belief in a supreme being; a recognition of the moral distinction between right and wrong; the obligation to recognize and cultivate the practice of all the virtues, such as temperance, sobriety, chastity, fortitude, prudence, justice, and, chief of all, charity. On these principles all must and do agree. There are other points of faith upon which the reason may and does pause, inquire, doubt; and yet it is upon these latter that zealots and enthusiasts dogmatize most confidently, dispute most furiously, and hate most implacably. It is upon these very points where we should be most distrustful of the correctness of our judgment and most charitable toward the views of others, that man is most confident, most obstinate, most uncompromising; and it is upon these where he consigns his fellowman to the dungeon, stretches him upon the rack, and burns him at the stake. Into that disputed territory masonry does not enter. Its leading tenet, charity, forbids; all its principles prohibit it. It accepts and plants itself upon those self-evident and universally accepted principles which lie at the foundation of all true religion and all morality, and upon the recognition and practice of which all human happiness must rest. It earnestly and constantly inculcates those principles in its charges in the lodge-room, its lectures, orations, and writings, and in all its proceedings, published and unpublished. It admonishes us to seek after truth, and teaches that truth is an attribute of divinity and the foundation of every virtue. In the language of another, already familiar to you, which cannot be improved or too often repeated in your hearing, the mason 'is instructed to put a due restraint upon his affections and passions; to preserve a noble and steady purpose of mind, equally distant from cowardice and

rashness; to regulate his life by the dictates of reason; and to render to every man his just due, without distinction. In short, the three great duties of life are impressed upon his conscience: 'reverence to God, the chief good; kindness to his neighbor, as prescribed by the golden rule, and respect for himself, by avoiding irregularities and intemperance, which impair the faculties and debase the dignity of his profession.'"

One of Judge Sawyer's last orations was at the laying of the corner-stone of the Leland Stanford Junior university, in virtue of his office as president of the board of trustees. After stating the object and scope of the institution, he said: "The little grove in the suburbs of Athens, which Academus presented to the Athenians, constituted the academy in which Socrates, and Plato, and their disciples taught their pupils philosophy, rhetoric, logic, poetry, oratory, mathematics, the fine arts and all the sciences so far as then developed. The influence emanating from those schools, notwithstanding their limited resources, has been largely felt through all succeeding ages; and it has, to this day, given direction to thought, and contributed largely to mold the characters and the civil institutions of all the peoples of Europe, and their descendants in America, and wheresoever else they may be found on the face of the earth. The people of that little republic of Attica,—the whole area of whose territory was only about two-thirds as large as that of the county of Santa Clara, in which our coming university is located—exercised a greater influence over the civilization, institutions, and destinies of modern nations than any other people, however great.

"The groves of Palo Alto—the tall tree—are much larger than Academus' sacred shade. These sturdy, umbrageous oaks, with Briarean arms; these stalwart, spreading laurels, and these tall eucalypti

are much grander and more imposing than the arbor-tenants of the grove at Athens. The soil of Palo Alto is far richer, and more productive than that of Attica; it yields as fine wheat, as delicious figs, grapes, olives, and other fruits. Its scenery is almost as grand and awe-inspiring, and quite as picturesque. Its climate is as dry, equable, and delightful. The arroyo de San Francisquito is as flush and turbulent in winter, if—although abundantly supplied for all purposes of the university above—as waterless in its lower reaches in summer as the two rivulets Cephissus and Ilissus. The transparent clearness and coloring of our sky is as matchless as that of Attica, and the azure dome above our heads by day or night is as pure and as brilliant as the violet crown of Athens. All our conditions are equally favorable to health, to physical and mental development, and to physical and mental enjoyment. Not an hour in the year is so cold as to interfere with mental or physical labor, nor an hour so hot as to render one languid, indisposed to physical or mental exertion, or as to dull the edge of thought. There is not a place in our broad land outside our own beloved state, where one can perform so much continuous physical or mental labor without weariness or irksomeness. Should the plans of the founders of the Leland Stanford Junior university be carried out in accordance with their grand conceptions, with such advantages as the location and climate afford, why should not students be attracted to its portals, not only from California, but from all other states of our vast country, now containing 60,000,000 of people, and even from foreign lands? What should prevent this university from becoming in the great future the first in this, or any other land? When fully developed, who can estimate its influence for good upon the destinies of the human race?

"A word to the founders of the Leland Stanford Junior university. It is fit that the corner-stone of this edifice should be laid on the anniversary of the birth of him, who, while yet a mere youth, first suggested the founding of a university—a suggestion upon which you have nobly acted, and to the establishment of which you have devoted so large a portion of the accumulations of a most energetic, active, and trying life. It is eminently fit that an institution founded and endowed on that suggestion should bear his name. The ways of providence are inscrutable. Under divine guidance his special mission on earth may have been to wake and set in motion those slumbering sentiments and moral forces which have so grandly responded to the impetus given, by devoting so large a portion of your acquisitions, and the remainder of your lives to the realization of the object thus suggested. If so, his mission has been nobly performed, and it is fit that both his name and the names of those who have executed his behests should be enrolled high upon the scroll of fame, and of the benefactors of the human race. You have wisely determined, during your lives, to manage and control for yourselves the funds of the foundation ; to supervise and direct the arrangement and construction of the buildings and the required adjuncts, and to superintend and give direction to the early development and workings of the new university. This is well. He who conceives is the one to successfully execute. May you remain among us to manage and control this great work, until you shall see the institution founded by your bounty firmly established on an immovable basis, enjoying a full measure of prosperity, affording the citizens of your adopted state the educational advantages contemplated, and dispensing to all the blessings and benign influences that ought to flow from such institutions. Long may you enjoy the satisfaction afforded by hopes fully realized—*Seri in cælum redeatis.*

"Fellow-members of the board of trustees of the Leland Stanford Junior university, in accepting this grand trust you have assumed the most weighty responsibilities, not only to the founders of the university, but to the children and youth of the commonwealth and to their posterity in all time to come. You have assumed the guardianship of the vast inheritance to which they have fallen heirs. In the near future, and thenceforth till time shall be no more, the duty will devolve upon us and our successors to administer this inheritance in such manner as to accomplish its great ends.

"Should we succeed in establishing and fully developing the new university in accordance with the conception and purposes of its founders—as succeed we must with proper efforts, and proper management, and with the aid and blessing of the omnipotent and all-wise being, who created all things, and without whose approval we can accomplish nothing—its power for good will go on from age to age to the end of time increasing and expanding until no corner of this broad earth will be beyond its humanizing, elevating, and benign influences. Invoking the divine blessing on our work, let all put forth a united continued effort to secure a consummation so devoutly to be wished. When this shall have been done, and the Leland Stanford Junior university shall have been once securely established upon a firm and stable basis, we may exclaim with unhesitating confidence that the idea will be fully realized, *esto perpetua!*"

It was in 1861, as I have said, that Judge Sawyer first made the acquaintance of Senator Stanford, and in the great railroad enterprise of which the latter was one of the projectors, he rendered most valuable assistance. When ground was broken in February 1863, the project was regarded rather as a joke than as a serious undertaking. The efforts made by Governor Stanford and his associates to secure the aid of San Francisco capitalists were utterly without

avail. Still they pressed on until, when the line was completed to Newcastle, their funds were exhausted. Had it stopped there, it is by no means certain that we should have had a transcontinental railroad to-day, and it is certain that its construction would have been delayed for many years. No movement had been made on the other side until it was fully demonstrated on this side that the road would be built. At this juncture, in April 1864, an act was passed whereby the state became responsible for the interest on \$1,500,000 of bonds. The measure was vigorously assailed and by many pronounced unconstitutional. A bill was immediately filed by the attorney-general to restrain the issue of the bonds, and on both sides the case was ably and elaborately argued, the judges failing to reach a conclusion. Finally Judge Sawyer took up the matter, for it was one in which he felt the deepest interest, knowing, as he did, that the building of the road depended on the result. After a careful study of the statute he decided that it was constitutional and in this opinion he was sustained by the other judges, with but a single and that only a partial exception. The Central Pacific was thus enabled to carry forward its work to the point where the government subsidy became available, and that work was never interrupted until the last spike was driven.

On the day when the first pick was driven into the ground at Cape Horn, Judge Sawyer stood on its summit, looking down upon this work, and for several days he was in company with the engineers when locating the route around Donner lake, and deciding on which side of its waters the line should be extended into the valley below. From its inception until its completion he watched with the deepest interest the progress of the greatest railroad enterprise of the age, and to him it has been a source of satisfaction that he was enabled to contribute to its success.

On the 10th of May 1869, when the Central joined hands with the Union Pacific, he thus wrote to his cousin, the former president of Central college, Ohio : "The great work has been accomplished. The last rail has been laid, the last spike driven, and the iron wedding of the east and the west has this day been consummated. We are now united by iron bands, never more to be severed. Wonderful achievement ! What a change in twenty years ! What a contrast between the weary journeying of months' duration, by the pilgrims of 1850, whose jaded animals, 'like a wounded snake, dragged their slow lengths along,' and the lightning speed with which the iron horse, 'like swift Camilla, skims o'er the plain.' In 1850 the emigrant to the Pacific shores required from four to six months to make the journey from the Missouri river to Sacramento. Now that trip will be made in four days. Only six years have been occupied in constructing that stupendous work, the transcontinental railroad. Almost at the very outset our company had to surmount the Sierra Nevada, clad with almost perpetual snow, commencing to climb the foothills of this lofty range within six miles of the starting point. Their iron and most of their other materials had to be brought around Cape Horn. Yet we have met you nearly in the center of the continent.

"This is a proud day for our youthful state. To her belongs the honor of furnishing the men who had the prescience to comprehend, the courage to undertake, and the energy and perseverance to prosecute the great work to its completion. What the Erie canal was to New York, will this greater undertaking be to the United States at large. The names of Stanford and Judah, of Huntington, Hopkins, and the two Crockers deserve a place in history by the side of Clinton. I am proud also that several of them are from New York, and that Hopkins is a native of our own Jefferson county."

Many times since the completion of the railroad, and twice, as I have said, before that event, Judge Sawyer visited the eastern states. The first occasion was in 1855, and the second in 1857, when, as he thought, he went home to remain in company with his newly married wife, Mrs Jennie M. Aldrich, whose acquaintance he made in Nevada city, and whose decease occurred in 1876. Of their three sons Wellbourne, the eldest, was killed by an accident, and the two survivors, Prescott and Houghton, were so named after two of the pioneer settlers of Lancaster, Massachusetts.

Judge Sawyer's last trip to the east was in the spring of 1890, when he was accompanied by Houghton, then only eighteen years of age, but already the inventor and patentee of an improvement in cable roads. Already an expert electrician, it is his intention to follow in that department the profession of an engineer. Nearly half a century before the judge had been a resident of Chicago, and visiting that city in May 1890, was entertained at dinner by members of the bar association, among them his former pupil, Judge James B. Bradwell. By him a letter was addressed to Judge Sawyer some few months before, inquiring whether he had not at an exhibition in early days, acted the part of judge in the comedy of the "Hoosier Court." From Sawyer's answer as published in the *Chicago Legal News* I extract the following:

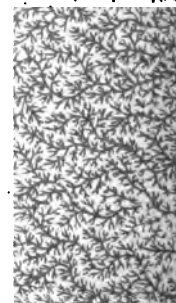
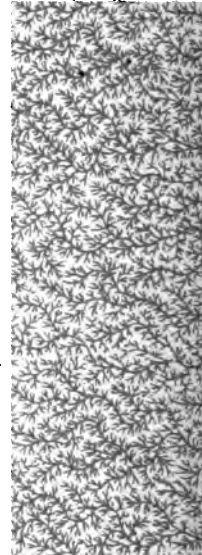
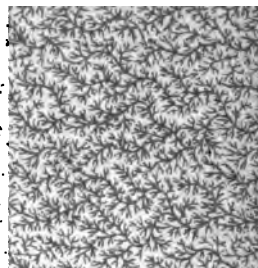
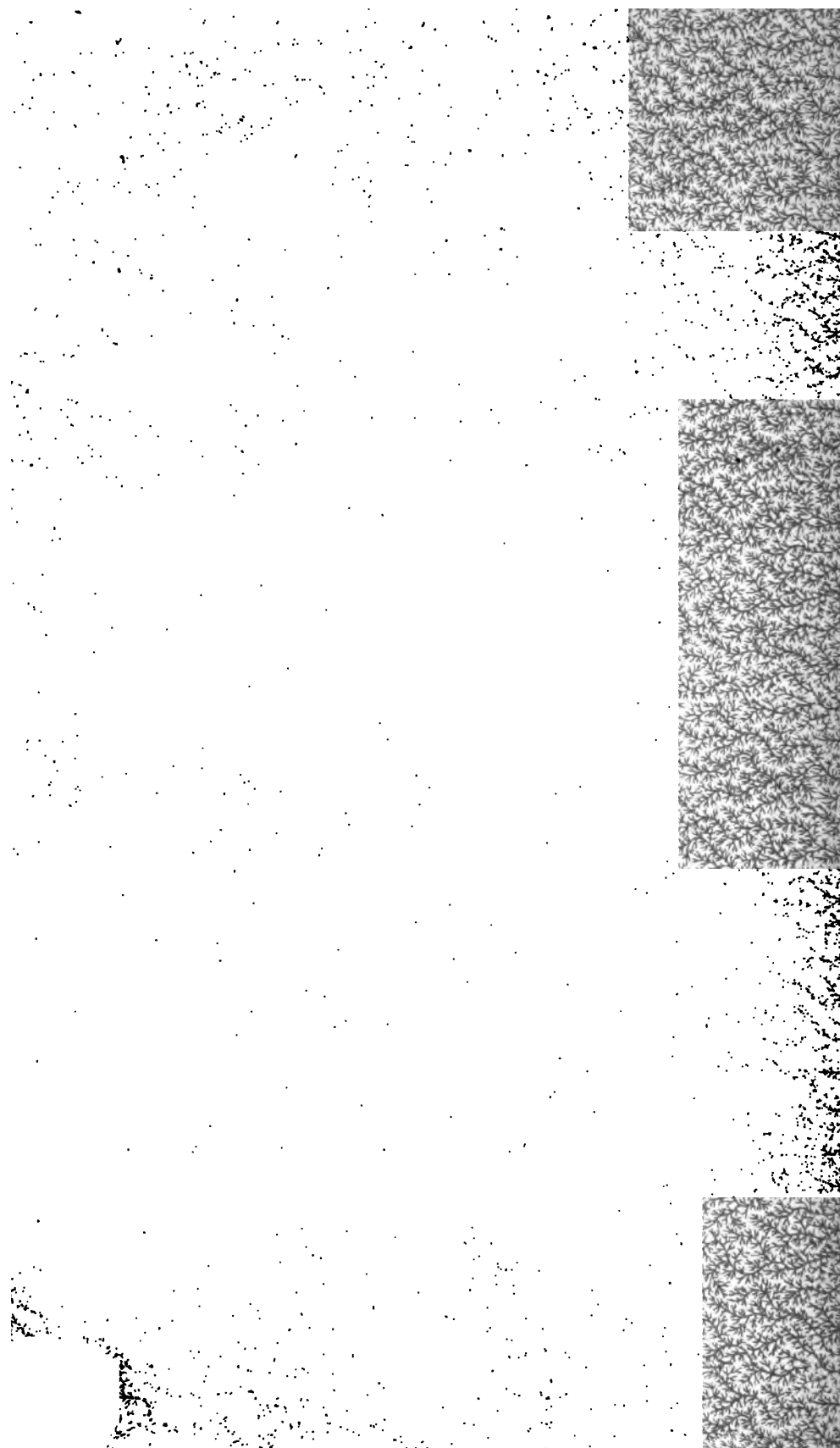
"I was a tutor at Wilson's academy during the spring of 1847, and at the close of the term had the honor of presiding over the 'Hoosier Court,' to which you refer. At that time I had not the remotest idea that I should ever preside over any other judicial tribunal; yet it has fallen to my lot to preside as judge over judicial tribunals, state or national, for twenty-eight years—twenty of them as United States circuit judge for the 9th circuit. Heretofore I have had four very large districts in

my circuit, requiring over 6,000 miles of travel each year to hold all my terms. Now the new states of Montana and Washington have been annexed, and if Idaho should be admitted, as is probable next winter, it will also be attached to my circuit. My jurisdiction is therefore considerably larger than it was when judge of the 'Hoosier Court.' Indeed I believe I have the largest territorial jurisdiction of any court in the world. I have jurisdiction of all offences committed anywhere in the world on the high seas, as well as appellate jurisdiction in cases in admiralty arising on the high seas. As circuit judge for the district of Oregon, I have appellate jurisdiction from Alaska, including the Behring sea. As circuit judge for the district of California, I have final appellate jurisdiction from the judgments and decrees of the consular and ministerial courts of China and Japan, and often have appeals from those courts. Also final and appellate jurisdiction from the consular and ministerial courts of all northern Africa, including Egypt and the Barbary states, and from the same courts in the empires of Turkey and Persia. Quite a change since the days of the 'Hoosier Court.'"

If when duty required in his official capacity Judge Sawyer has been stern and inflexible, in private life he is the very embodiment of kindness and simplicity. One of the oldest and most respected members of the judiciary, he is none the less respected among the chosen circle of his intimate friends. While in that circle the dignity of office is laid aside, and in its place is a gentleness and affection that have won the hearts of all who knew him, have called forth esteem that has ripened almost into reverence. Too often is it the case that the majesty of public station fades amid the intimacies of family life; but not so in his, for here are no vices or weaknesses to be glossed over or concealed. Pure

as his administration has been his private life, simple and abstemious his habits, and there are none of whom it can more truly be said that he has kept himself unspotted from the world.

Now at the age allotted as the limit of man's earthly career, his faculties are still unimpaired and he may yet live to adorn, for many years to come, the profession to which he has imparted so much of its tone and repute. He may live, as he himself remarked to the alumni, unconsciously depicting his own career, to secure the sanctuaries of justice from profanation, to guard their portals from the intrusion of the unworthy, and to proclaim to the unsanctified, *Procul, O procul este, profani!* Let us hope that it may be so, for such men his country needs; men who so far as it is given to erring humanity, bring to these, our earthly tribunals, the qualities which in their highest development, belong only to the great tribunal from which there is no appeal.



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